



UNDERGROUND STORAGE TANK MAINTENANCE FEE REGULATIONS

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UNDERGROUND STORAGE TANK MAINTENANCE
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CALIFORNIA CODE OF REGULATIONS
TITLE 18. Public Revenues
Division 2. State Board of Equalization—Business Taxes
Chapter 2. Use Fuel Tax

Regulation 1201. DEFINITIONS.

Reference: Sections 50107, 50108.1, 50109, and 7355, Revenue and Taxation Code.
Sections 25281, 25283.5, 25299.20, 25299.22, 25299.24, 25299.41, and
25299.43, Health and Safety Code.
Title 18, California Code of Regulations, Section 1121.
40 Code of Federal Regulations, Section 280.12.

(a) “GALLON” means the United States gallon of 231 cubic inches, without adjustment of the volumetric gallonage for temperature correction of the petroleum delivered into the underground storage tank, except that temperature corrected gallonage to 60 degrees Fahrenheit will be accepted as the gallonage delivered when all of the following conditions are met:

(1) The quantity of petroleum delivered in a single delivery to a single location is 1,000 or more gallons; and

(2) The delivery of the petroleum is invoiced to the purchaser, and settlement is made by the purchaser, based on the temperature corrected gallonage of the petroleum delivered; or, if the delivery is to a tank location operated by the manufacturer of the petroleum, the gallonage accounted for in the inventory records of the manufacturer for the delivery location is maintained on a temperature corrected basis; and

(3) Temperature correction is consistently applied to all deliveries to the location over a period of 12 or more consecutive months.

(b) “OPERATOR” means any person who is in control of, or has responsibility for, the daily operation of an underground storage tank. The operator is not liable for the fee unless the operator is also the owner of the underground storage tank.

(c) “PETROLEUM” means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at 60 degrees Fahrenheit and 14.7 pounds per square inch absolute. Petroleum includes products that are blends of hydrocarbons derived from crude oil through processes such as separation, conversion, upgrading, or finishing.

(d) “UNDERGROUND STORAGE TANK” means a tank or combination of tanks, including any attached piping, that is used for the accumulation of petroleum, and the volume of which is 10 percent or more beneath the surface of the ground. The term “underground storage tank” does not include any of the following:

(1) A tank of 1,100 gallons or less capacity which is located on a farm or on property used primarily for dwelling purposes and which is used for storing motor vehicle fuel for purposes other than for resale.

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(2) A tank used for storing heating oil for consumptive use on the premises where stored.

(3) A tank which meets all the following conditions:

(A) All exterior surfaces of the tank, including connected piping, and the floor directly beneath the tank, can be monitored by direct viewing.

(B) The structure in which the tank is located is constructed in such a manner that the structure provides for secondary containment of the contents of the tank, as determined by the local agency designated pursuant to Section 25283 of the Health and Safety Code.

(C) The owner or operator of the underground storage tank conducts daily inspections of the tank and maintains a log of inspection results for review by the local agency designated pursuant to Section 25283 of the Health and Safety Code, as requested by the local agency.

(D) The local agency designated pursuant to Section 25283 of the Health and Safety Code determines without objection from the State Water Resources Control Board that the underground storage tank meets requirements which are equal to or more stringent than those imposed by Division 20, Chapter 6.7 of the Health and Safety Code, commencing with Section 25280.

History: Adopted October 6, 1999, effective January 8, 2000.

Regulation 1205. FEE PAYER; REBUTTABLE PRESUMPTION.

Reference: Section 50107, Revenue and Taxation Code. Section 25299.41 and 25299.43, Health and Safety Code.

The fee is due from the owner of an underground storage tank for which a permit is required pursuant to Section 25284 of the Health and Safety Code. There is a rebuttable presumption that the owner of the real property is the owner of the underground storage tank located on the property, even if the property is leased to another person. This presumption may be overcome by showing that ownership of the tank rests with someone other than the real property owner. Evidence to rebut the presumption may include, but is not limited to, the following:

(a) The lessee installed the underground storage tank at the location, and the lease agreement gives the lessee the right to remove the tank at the termination of the lease, regardless of whether the lessor's approval of the removal is required.

(b) The lessee installed the underground storage tank at the location, and the lease agreement states that any improvements installed by the lessee are the property of the lessee during the term of the lease.

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(c) Documentation, such as a bill of sale, shows the transfer of ownership of the tank to a person other than the real property owner.

(d) The underground storage tank is depreciated on the state or federal income tax returns of a person other than the real property owner.

(e) The underground storage tank existed at the premises at the time the lease agreement was signed, and the lease agreement specifies that the underground storage tank is owned by and title thereto is vested in the lessee during the term of the lease.

History: Adopted November 1, 2000, effective February 8, 2001.

Regulation 1212. LIABILITY FOR FEE.

Reference: Sections 50107, 50109, and 50159 Revenue and Taxation Code. Sections 25299.41 and 25299.43 Health and Safety Code.

(a) The fee is imposed upon the owner of an underground storage tank for each gallon of petroleum placed into the tank. The owner of the tank is liable for payment of the fee regardless of whether the owner is the operator of the underground storage tank and is liable for the fee even if the owner and operator have entered into an agreement that requires the operator to pay the fee to the board.

(b) The fee is due regardless of whether the fee has previously been paid for gallons of petroleum that were removed from an underground storage tank and placed into another underground storage tank or redeposited into the same tank in which they were previously stored.

(c) An owner is liable for the fee on all gallons placed in the underground storage tank(s) he or she owns. Where the owner requires a certain brand of fuel to be placed in a tank and the operator also places a different brand of fuel in the tank, the owner is liable for the fee on the gallons of both brands of fuel, even if placing fuel of a different brand in the tank violates the lease between the operator and owner.

(d) An owner is liable for the fee even though the owner claims he or she did not know the fee was due or was unable to obtain information from an operator as to the gallons placed into the underground storage tank(s). As provided by subdivision (c) of Section 50159 of the Revenue and Taxation Code, the board may provide to the fee payer otherwise confidential information obtained from the operator of an underground storage tank to the extent that this information is necessary for assessment, administration, and verification of the fee.

History: Adopted October 6, 1999, effective January 8, 2000.

Regulation 1213. PAYMENT OF FEE BY OPERATOR.

Reference: Sections 50107, 50109, 50139, and 50140, Revenue and Taxation Code. Sections 25299.41 and 25299.43, Health and Safety Code.

(a) If the board discovers that the fee has been paid by the operator, but the notarized documents described in subdivisions (b)(1) and (b)(2) below have not been filed with the board, the owner and operator will be given an opportunity to request in writing that fee payments made by the operator be transferred to the owner's account. Until such request is made, the owner remains liable for payment of the fee, penalties, and interest without credit for fees paid by the operator, and the operator may request a refund of the amounts paid pursuant to Section 50140 of the Revenue and Taxation Code.

(b) For the convenience of the owner and operator, and to facilitate payment of the fee by the operator on behalf of the owner, the board shall mail fee returns and any notices for the owner's account to the operator if both of the following conditions are met:

(1) The owner executes a notarized document in the form shown below, requesting that the fee returns and all notices for the owner's account be mailed to the operator. The owner must acknowledge in the form that he or she is responsible for the fee if, for example, the operator fails to make payment, pays the fee late, or underreports the gallons on which the fee is based. The documents will remain in effect until the owner advises the board and the operator in writing of any change.

(2) The operator executes a notarized document in the form shown below, acknowledging that he or she will pay the fee and any related interest and penalty on behalf of the owner and will not file a claim for refund of the fee based on the grounds that he or she was the operator rather than the owner of the tank and, therefore, did not owe the fee. The document will remain in effect until the operator advises the board and owner in writing of any change.

Exhibits A and B are samples of the documents described in (b)(1) and (b)(2) above.

History: Adopted October 6, 1999, effective January 8, 2000.

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Exhibit A

STATEMENT OF UNDERGROUND STORAGE TANK OWNER
(Title 18, California Code of Regulations, Section 1213)

Account No.: TK MT 44-_____

I hereby authorize the Board of Equalization to send all notices and returns concerning the identified Underground Storage Tank Maintenance Fee (Part 26, Division 2 of the Revenue and Taxation Code, commencing with Section 50101) Account to the following:

Location of tank(s) STREET	CITY	COUNTY
Name of Tank Operator		Area Code and Telephone Number
Mailing Address of Tank Operator		

By executing this document, I/we understand that all returns and notices regarding the above Underground Storage Tank Maintenance Fee Account will be mailed to the tank operator identified above, but that I/we am/are responsible for payment of all Underground Storage Tank Maintenance Fees, penalties and interest due based on the gallons of petroleum placed in the underground storage tank(s). I/we also acknowledge receipt of a copy of the Board’s Pamphlet 88, Underground Storage Tank Fee.

Name of Tank Owner (Please Print)	Area Code and Telephone Number
Mailing Address of Tank Owner	

Signature of Tank Owner	Date
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Title (Owner, Partner, Corporate Officer)

Signature of Tank Owner	Date
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Title (Owner, Partner, Corporate Officer)

Attach Notary Statement Here

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Exhibit B

STATEMENT OF UNDERGROUND STORAGE TANK OPERATOR
(Title 18, California Code of Regulations, Section 1213)

Account No.: TK MT 44-_____

Location of tank(s) STREET	CITY	COUNTY
Name of Tank Owner		Area Code and Telephone Number
Mailing Address of Tank Owner		

By executing this document, I/we understand that all returns and notices regarding the above Underground Storage Tank Maintenance Fee Account will be mailed to me/us, as the tank operator identified below. As the operator of the underground storage tank, I/we acknowledge I/we am/are paying the Underground Storage Tank Maintenance Fee on behalf of the tank owner and will not apply for a refund of the fees on the basis that I/we am/are not the owner of the tank and, therefore, do not owe the fees. I/we will notify both the Board of Equalization and the tank owner of any changes affecting this account. I also acknowledge receipt of a copy of the Board’s Pamphlet 88, Underground Storage Tank Fee.

Name of Tank Operator (Please Print)	Area Code and Telephone Number
Mailing Address of Tank Operator	
Signature of Tank Operator	Date
Title (Owner, Partner, Corporate Officer)	
Signature of Tank Operator	Date
Title (Owner, Partner, Corporate Officer)	

Attach Notary Statement Here

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Regulation 1220. EXEMPTION FROM FEE.

Reference: Sections 50107 and 50108, Revenue and Taxation Code. Sections 25299.20 and 25299.21, Health and Safety Code.

The fee does not apply to:

- (a) The State of California, or any agency or department thereof.
- (b) The United States, its unincorporated agencies and instrumentalities.
- (c) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.
- (d) Banks and other financial institutions.
- (e) Insurance companies.
- (f) Any person of Indian descent who is entitled to receive services as an Indian from the United States Department of the Interior when the underground storage tank is located upon an Indian reservation, including rancherias, or any land held by the United States in trust for any Indian tribe or individual Indian.

History: Adopted October 6, 1999, effective January 8, 2000.

Regulation 1248. RELIEF FROM LIABILITY.

Reference: Section 50112.5, Revenue and Taxation Code.

A person may be relieved from the liability for the payment of the fee, including any penalties and interest added to those fees, when that liability resulted from the failure to make a timely return or a payment and such failure was found by the board to be due to reasonable reliance on written advice given by the board as described in [California Code of Regulations, Title 18, Section 4902](#).

History: Adopted October 6, 1999, effective January 8, 2000.

Amended February 5, 2003, effective May 28, 2003. The underscored citation indicates an electronic hyperlink to the cite. Common administrative provisions for special taxes programs have been consolidated in Chapter 9.9 Special Taxes Administration. Requirements for relief from liability can be found at the referenced cite.

Regulation 1271. RECORDS.

Reference: Sections 50109 and 50153, Revenue and Taxation Code.

(a) GENERAL.

A fee payer shall maintain and make available for examination on request by the board or its authorized representatives, records in the manner set forth at [California Code of Regulations, Title 18, Section 4901](#).

(b) SPECIFIC APPLICATIONS. In addition to the record keeping requirements set forth in subdivision (a), owners of underground storage tanks shall comply with the following requirements.

An owner of underground storage tanks shall maintain complete records of all tanks owned and all purchases of petroleum products placed into underground storage tanks. Such records include but are not limited to:

- (1) Federal Income Tax Return Depreciation Schedules or fixed asset and improvement listing.
- (2) Property Tax Statements.
- (3) Underground storage tank installation records.
- (4) Lease agreements.
- (5) Petroleum products purchase invoices.
- (6) Copy of local agency permit and application for permit filed with the local agency.

History: Adopted October 6, 1999, effective January 8, 2000.

Amended February 5, 2003, effective May 28, 2003. The underscored citation indicates an electronic hyperlink to the cite. Common administrative provisions for special taxes programs have been consolidated in Chapter 9.9 Special Taxes Administration. General record keeping requirements can be found at the cite referenced in subdivision (a). Subdivision (b) has been added to identify additional record keeping requirements for underground storage tank owners.